



General Assembly

February Session, 2006

Raised Bill No. 5265

LCO No. 1511

01511_____ET_

Referred to Committee on Energy and Technology

Introduced by:
(ET)

AN ACT CONCERNING COMMUNITY ACCESS TELEVISION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) A community antenna
2 television advisory council or an organization or company selected
3 pursuant to section 16-331a of the general statutes, as amended by this
4 act, that appeals an order or decision of the Department of Public
5 Utility Control issued pursuant to sections 16-331, 16-331a and 16-333
6 of the general statutes, as amended by this act, shall be deemed to be
7 aggrieved. The provisions of this section shall not apply to an appeal
8 from the granting or denial of a new or renewed certificate of public
9 convenience and necessity pursuant to section 16-331 of the general
10 statutes, as amended by this act.

11 Sec. 2. Subsection (c) of section 16-331 of the general statutes is
12 repealed and the following is substituted in lieu thereof (*Effective*
13 *October 1, 2006*):

14 (c) (1) A representative of a community antenna television company
15 issued a certificate of public convenience and necessity in accordance
16 with this section shall, twice a year, arrange for and hold a meeting

17 with the advisory council established, in accordance with regulations
18 adopted by the department in accordance with chapter 54, for the
19 franchise area served by such company. (2) The department shall
20 designate an advisory council as an intervenor in any contested case
21 before the department involving the community antenna television
22 company which the council is advising. Such company shall provide to
23 the chairperson of its advisory council a copy of any report, notice or
24 other document it files with the department. If a community antenna
25 television company fails or refuses to furnish adequate service to any
26 customer, the advisory council for the franchise area served by the
27 company may file a written petition with the department alleging the
28 failure or refusal. The department shall hold a hearing on such petition
29 and, not later than one hundred fifty days after receiving the petition,
30 shall issue a written decision on the petition. The company shall
31 thereafter furnish service to the customer in accordance with the
32 conditions prescribed under the department's decision. (3) Each
33 community antenna television company shall, every six months,
34 provide on bills, bill inserts or letters to subscribers, and shall
35 prominently post in the company's primary subscriber service area
36 and community access facility, a notice indicating the name and an
37 address of the chairperson of the company's advisory council and
38 describing the responsibilities of the advisory council. Each such
39 company shall provide its advisory council with an opportunity to
40 review such notice prior to distributing or posting the notice. (4) The
41 department shall adopt regulations in accordance with the provisions
42 of chapter 54 to establish a state-wide advisory council that shall assist
43 local advisory councils in the performance of their functions and
44 disseminate information to local advisory councils that is relevant to
45 the interests of customers of community antenna television companies.

46 Sec. 3. Subsection (d) of section 16-331 of the general statutes is
47 amended by adding subdivision (7) as follows: (*Effective October 1,*
48 *2006*):

49 (NEW) (7) Notwithstanding the provisions of this subsection, the

50 department shall extend a certificate for a franchise upon the
51 submission of (A) an agreement between the franchise and an
52 organization or company providing community access programming
53 for capital financial assistance for improvements to such organization
54 or company's facilities or equipment, and (B) evidence of payment by
55 the franchise pursuant to said agreement. Such extension shall not be a
56 contested case proceeding.

57 Sec. 4. Subsection (f) of section 16-331 of the general statutes is
58 repealed and the following is substituted in lieu thereof (*Effective*
59 *October 1, 2006*):

60 (f) Each applicant for a certificate shall finance the reasonable costs
61 of a community needs assessment, conducted by an independent
62 consultant and developed jointly by the department, the Office of
63 Consumer Counsel, the local advisory council and the applicant,
64 which assessment shall analyze a community's future cable-related
65 needs and, if applicable, shall provide the department with assistance
66 in analyzing an operator's past performance as defined in subsection
67 (d) [of section 16-333/] this section. The department shall supervise the
68 assessment and provide the independent consultant with the date
69 upon which the assessment shall be completed and filed with the
70 department. Such community needs assessment shall be conducted in
71 lieu of the requirement in subdivision (12) of subsection (c) of section
72 16-333-39 of the regulations of Connecticut state agencies. If the
73 department refuses to order the implementation of any of the
74 assessment's recommendations, the department shall state the reasons
75 for such refusal in its decision. The provisions of this subsection shall
76 not apply to a franchise area which is subject to effective competition,
77 as defined in 47 USC 543, as from time to time amended, at the time
78 the application is received by the department.

79 Sec. 5. Subsection (g) of section 16-331 of the general statutes is
80 repealed and the following is substituted in lieu thereof (*Effective*
81 *October 1, 2006*):

82 (g) Each certificate of public convenience and necessity for a
83 franchise issued pursuant to this section shall be nonexclusive, and
84 each such certificate issued for a franchise in any area of the state
85 where an existing franchise is currently operating shall not contain
86 more favorable terms or conditions than those imposed on the existing
87 franchise. This subsection shall not apply to the length of the term of
88 such certification as may be determined pursuant to subsection (d) of
89 this section. A certificate may require a franchise to allow community
90 access television interconnection with an existing or potential
91 competitor franchise.

92 Sec. 6. Subsection (d) of section 16-331a of the general statutes is
93 repealed and the following is substituted in lieu thereof (*Effective*
94 *October 1, 2006*):

95 (d) Each company or organization shall conduct outreach programs
96 and promote its community access services. Such outreach and
97 promotion may include, but not be limited to (1) broadcasting cross-
98 channel video announcements, (2) distributing information throughout
99 the franchise area and not solely to its subscribers, (3) including
100 community access information in its regular marketing publications,
101 (4) broadcasting character-generated text messages or video
102 announcements on barker or access channels, (5) making speaking
103 engagements, [and] (6) holding open receptions at its community
104 access facilities, and (7) in multitown franchise areas, encouraging the
105 formation and development of local community access studios
106 operated by volunteers or nonprofit operating groups.

107 Sec. 7. Subsection (h) of section 16-331a of the general statutes is
108 repealed and the following is substituted in lieu thereof (*Effective*
109 *October 1, 2006*):

110 (h) Upon the request of the Office of Consumer Counsel or the
111 franchise's advisory council, and for good cause shown the department
112 shall require an organization responsible for community access
113 operations to have an independent audit conducted at the expense of

114 the organization. For purposes of this subsection, good cause may
115 include, but not be limited to, the failure or refusal of such
116 organization (1) to account for and reimburse the community access
117 programming budget for its commercial use of community access
118 programming facilities, equipment or staff, or for the allocation of such
119 facilities, equipment or staff to functions not directly related to the
120 community access operations of the franchise, (2) to carry over
121 unexpended community access programming budget accounts at the
122 end of each fiscal year, (3) to properly maintain community access
123 programming facilities or equipment in good repair, or (4) to plan for
124 the replacement of community access programming equipment made
125 obsolete by technological advances. In response to any such request,
126 the department shall state, in writing, the reasons for its action or
127 inaction.

128 Sec. 8. Subsection (k) of section 16-331a of the general statutes is
129 repealed and the following is substituted in lieu thereof (*Effective*
130 *October 1, 2006*):

131 (k) [The] In addition to the amount needed for the facilities,
132 equipment and support required to be provided pursuant to
133 subsection (b) of this section, the department shall establish the
134 amount that the company or organization responsible for community
135 access operations shall receive for such operations from subscribers
136 and from multichannel video programming distributors. The amount
137 shall be five dollars per subscriber per year, adjusted annually by a
138 percentage reflecting the increase or decrease of the consumer price
139 index for the preceding calendar year, provided the department may
140 increase or decrease the amount by not more than forty per cent of said
141 amount for the subscribers and all multichannel video programming
142 distributors within a franchise area after considering (1) the criteria set
143 forth in subsection (c) of this section, (2) the level of public interest in
144 community access operations in the franchise area, (3) the level of
145 community need for educational access programming, (4) the level and
146 breadth of participation in community access operations, (5) the

adequacy of existing facilities, equipment and training programs to meet the current and future needs of the franchise area, and (6) any other factors determined to be relevant by the department. Prior to increasing or decreasing said amount, the department shall give notice and opportunity for a hearing to the company or multichannel video programming distributor and, where applicable, the organization responsible for community access programming. The amount shall be assessed once each year for each end user premises connected to an open video system, irrespective of the number of multichannel video programming distributors providing programming over the open video system. When the department issues, transfers or renews a certificate of public convenience and necessity to operate a community antenna television system, the department shall include in the franchise agreement the amount that the company or organization responsible for community access operations shall receive for such operations from subscribers. The department shall conduct a proceeding to establish the amount that the company or organization responsible for community access operations shall receive for such operations from multichannel video programming distributors and the method of payment of said amount. The department shall adopt regulations in accordance with chapter 54 to implement the provisions of this subsection. The company or organization shall annually submit to the department, for its approval, a budget for the expenditure of the funds received under this subsection. The advisory council and any local group to which community access programming responsibilities have been delegated pursuant to subsection (p) of this section shall have input in the formulation of such budget and in the expenditure of such funds. In multitown franchise areas, such budget shall be structured in such manner as to effect an equitable distribution of such resources, or the benefits derived from such resources, throughout the franchise area.

Sec. 9. Section 16-331a of the general statutes is amended by adding subsections (o) and (p) as follows (*Effective October 1, 2006*):

180 (NEW) (o) Each company or organization shall consult with its
181 advisory council in the formation of a community access programming
182 policy, the adoption of the community access programming budget
183 and the allocation of capital equipment and community access
184 programming resources.

185 (NEW) (p) Each company or organization in a multitown franchise
186 area may delegate responsibility for the production of community
187 access programming to local, nonprofit, volunteer operating groups,
188 subject to its supervision over such groups. Such groups may require
189 payment of nominal dues as a qualification for membership, provided
190 such dues or membership do not confer a privilege in the use of
191 community access facilities or equipment or constitute an indirect
192 charge for such use. The department shall adopt regulations in
193 accordance with the provisions of chapter 54 to establish procedures
194 for the supervision of such groups by such companies or
195 organizations.

196 Sec. 10. Section 16-331c of the 2006 supplement to the general
197 statutes is repealed and the following is substituted in lieu thereof
198 (*Effective October 1, 2006*):

199 Each community antenna television company, as defined in section
200 16-1, as amended, shall annually contribute to the advisory council in
201 its franchise area an amount not less than two thousand dollars [. An]
202 and to the state-wide advisory council an amount not less than two
203 hundred dollars. A local advisory council may at its option receive any
204 or all of its funding through in-kind services of the community
205 antenna television company. [Each] The state-wide advisory council
206 and each local advisory council shall annually, on January thirty-first,
207 provide the Department of Public Utility Control with an accounting
208 of any funding or services received.

209 Sec. 11. (NEW) (*Effective October 1, 2006*): (a) The Department of
210 Public Utility Control shall adopt regulations in accordance with the
211 provisions of chapter 54 of the general statutes to establish a system for

212 the formal review of the performance of each community antenna
 213 television company at the mid-point and at the end of the term of its
 214 franchise contained in its certificate of public convenience and
 215 necessity. The review at the end of the term shall commence and be
 216 concluded prior to any application for a renewal of the franchise's
 217 certificate.

218 (b) The purpose of said reviews shall be to monitor franchise
 219 compliance with the provisions of chapter 289 of the general statutes
 220 and regulations adopted pursuant to said chapter 289.

221 (c) A review pursuant to this section shall include at least one public
 222 hearing. If, at the time of the review at the end of the term of a
 223 franchise, a community needs assessment pursuant to section 16-331 of
 224 the general statutes, as amended by this act, is in progress or will be
 225 required for the renewal of the certificate of public convenience and
 226 necessity, such assessment shall be considered in said review.

227 (d) The information obtained in a review conducted pursuant to this
 228 section and from the community needs assessment, if applicable, shall
 229 be used by the department to formulate a list of provisions to be
 230 included in the succeeding franchise certificate of public convenience
 231 and necessity, which provisions shall be contained, in writing, in the
 232 department's decision at the conclusion of the performance review at
 233 the end of the term of the franchise. Said provisions shall be entered
 234 into the record at the commencement of a proceeding for an initial,
 235 renewal or transfer certificate of public convenience and necessity for
 236 the subject franchise.

237 (e) Reviews conducted pursuant to this section shall be distinct from
 238 proceedings initiated pursuant to 47 USC 546.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	New section

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Sec. 2	<i>October 1, 2006</i>	16-331(c)
Sec. 3	<i>October 1, 2006</i>	16-331(d)
Sec. 4	<i>October 1, 2006</i>	16-331(f)
Sec. 5	<i>October 1, 2006</i>	16-331(g)
Sec. 6	<i>October 1, 2006</i>	16-331a(d)
Sec. 7	<i>October 1, 2006</i>	16-331a(h)
Sec. 8	<i>October 1, 2006</i>	16-331a(k)
Sec. 9	<i>October 1, 2006</i>	16-331a
Sec. 10	<i>October 1, 2006</i>	16-331c
Sec. 11	<i>October 1, 2006</i>	New section

Statement of Purpose:

To amend the community antenna television systems provisions to encourage community access television.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]